

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

This case is before the Court on Defendant Jerald Gray's Third Motion to Continue Trial Date (ECF No. 80). The Government does not oppose this request. For reasons set forth in the Motion, and as required by the Speedy Trial Act, it is the finding of this Court that the ends of justice served by the granting of the continuance outweigh the best interest of the public and the Defendant in a speedy trial. *See* 18 U.S.C. § 3161(h)(7) (2022). The Court makes this finding because a failure to grant such a continuance would deny counsel for the Defendant and the attorney for the Government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. *See id.* § 3161(h)(7)(B)(iv).

Additionally, at the August 23, 2022 scheduling hearing, Defendant Gray, by counsel, indicated that he intends to file a motion to suppress certain evidence to be used against him, that he has sought unsuccessfully to obtain an expert to testify in support of his motion but that he has consulted with experts to help draft the motion, and requested leave to file his motion no later than September 26, 2022. The Government does not oppose the Defendant's scheduling proposal. Defendant also waives his right to a speedy trial between September 26, 2022 and the rescheduled trial date so he can adequately litigate these pre-trial issues. (ECF

No. 80.) *See also* 18 U.S.C. § 3161(h)(1)(D) (excluding from the speedy trial calculations any “delay resulting from any pretrial motion, from the filing of the motion through the conclusion of the hearing on, or other prompt disposition of, such motion”). Defendant has also indicated that, if the evidence is not suppressed, he will pursue a conditional plea or a bench trial. (ECF No. 80.)

For the foregoing reasons, Defendant’s Motion to Continue Trial Date is **GRANTED** and the trial date is **CONTINUED** until January 5-6, 2023. The time period from September 26, 2022 until January 5, 2023 shall be excluded from the calculation of time under the Speedy Trial Act. 18 U.S.C. § 3161(h)(7)(A).

Further, Defendant shall file his motion to suppress no later than September 26, 2022. *See* Fed. R. Crim. P. 12(c)(1) (permitting the court to set a deadline for filing motions under Rule 12(b)(3), including motions to suppress evidence). The Government shall file its opposition no later than 14 days from the date on which Defendant files his motion, and the Defendant shall file his reply no later than 7 days from the date on which the Government files its opposition, if he chooses to file one.

The Clerk is directed to forward a copy of this Order to all counsel of record.

**ENTERED** this 25th day of August, 2022.

/s/Thomas T. Cullen  
HON. THOMAS T. CULLEN  
UNITED STATES DISTRICT JUDGE